IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 17TH OCTOBER 2006 / 25TH ASWINA 1928

MACA.No. 1044 of 2006()

OPMV.537/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM

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APPELLANT/4TH RESPONDENT

NATIONAL INSURANCE COMPANY LTD.,
BRANCH OFFICE, KOLLAM.

BY ADV. SRI.RAJAN P.KALIYATH

RESPONDENTS:

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1. LEELA, W/O.GOPINATHA PILLAI,
M.M.NIVAS, KADAMPATTUKONAM CHERRY, PARIPPALLY
VILLAGE, PARIPPALLY P.O.

2. ASOKAN, S/O.SOMAN,
KUNNUPURATHU VEEDU, CHIRAKKARA THAZHAOM,
CHIRAKKARA VILLAGE, CHIRAKKARA P.O.

3. SANGARAN PILLAI, S/O.DAMODARAN PILLAI,
JUTTILAPANTHIVILA VEEDU, BHOOTHAKKULAM P.O.,
PARAVOOR.

4. SUNIL KUMAR, S/O.SASANKAN, CHANGAVIL
LEKSHAM VEEDU, AYATHIL CHERRY,
AYATHIL P.O., VADAKKEVILA VILLAGE.

5. GOPINATHA PILLAI, S/O.NEELAKANTA
PILLAI, M.M.NIVAS, KADAMPATTUKINAM,
PARIPPALLY P.O., KOLLAM.

6. M/S.ORIENTAL INSURANCE CO.LTD.,
BRANCH OFFICE, PAZHAVANGADI, THIRUVANANTHAPURAM.

R1 TO R5 BY ADV. SRI.G.BHAGAVAT SINGH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 17/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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M.A.C.A.No.1044 of 2006 &
C.M.Appl.1136 of 2006

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Dated this the 17th day of October, 2006.

JUDGMENT

This appeal arises from the award in O.P.(MV) No.537 of 1999 of the Motor Accidents Claims Tribunal, Kollam. That claim petition was tried and disposed of jointly with O.P.(MV)No.536 of 1999. The Division Bench of this Court has dismissed M.A.C.A.No.993 of 2006 against the award in O.P.(MV)No.536 of 1999 and the application to condone the delay in filing the said appeal, by judgment dated 15-9-2006. In view of that, this appeal by the insurer on the questions touching negligence and as to whether the driver possessed a valid licence is barred by res judicata, the award in O.P.(MV)No.536 of 1999 having become final. That apart, the reasons stated in the affidavit filed to condone the delay is virtually the same as that urged before the Division Bench, which did not find favour.

For the aforesaid reasons, the application to condone the delay and the appeal are dismissed.

Thottathil B.Radhakrishnan,
Judge.

sl.